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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,275	12/28/2001	Amy L. Sherwood	BS01-174	2691
38823	7590	06/02/2005	EXAMINER	
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP/ BELLSOUTH I.P. CORP 100 GALLERIA PARKWAY SUITE 1750 ATLANTA, GA 30339			FOSTER, ROLAND G	
			ART UNIT	PAPER NUMBER
			2645	

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/028,275

Applicant(s)

SHERWOOD, AMY L.

Examiner

Roland G. Foster

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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### DETAILED ACTION

Applicant's arguments with respect to claims 1-58 have been considered but are moot in view of the new ground(s) of rejection. The new limitations, introduced by the amendment of December 27, 2004, still read on the Jain, Pershan, and Brown references when the limitation "stand-alone communication device" is interpreted reasonably broad consistent with the applicant's specification. See the following rejections for further details.

Thus, the following rejections are repeated except where any new grounds of rejection is due to the amendment to the claims.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 8-11, 13-16, 19-22, 24-27, 30-33, 35-38, 41-44, 47-50, and 53-56 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,085,101 ("Jain"), of record.

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With respect to claims 1 and 13, Jain clearly discloses recording a message, inputting an access code (i.e., telephone number), and indicating a delivery time to the communication medium of the recipient (abstract, cols. 7 and 8).<sup>1</sup>

The limitation directed to recording and delivering a messages from a "stand-alone communication device" reads on Fig. 9, service node 908, which does not reside in the communications network element but is instead an off the shelf PC (col. 11, lines 28-37). Thus, the service node 908 can be interpreted as a "stand-alone communication device" because it stands apart from the telephone company network.<sup>2</sup>

Claim 24 differs substantively from claims 1 and 13 in that claim 24 recites sending the message to the communication medium of "oneself" rather than to the recipient. However, the caller's communication medium is a telephone, which is the same as the destination medium. Therefore, the message is sent to the communication medium of oneself.

Claims 35 and 47 differ substantively from claims 1 and 13 in that claims 35 and 47 recite a system comprising means that perform functions equivalent to the method steps of

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<sup>1</sup> Interpreting an "access code" as a telephone number is consistent with applicant's claim structure (e.g., see claims 8 and 9).

<sup>2</sup> This interpretation is also consistent with the applicant's specification, which states that a "stand-alone" device contrasts with a "voice mail system...provided through a telephone company" (page 30, paragraph 0033 of the applicant's specification). The applicant's specification also states that the "stand-alone" device "may" be connected to a telephone line at home or work. *Id.* However, since this statement is stated in discretionary terms (i.e., "may"), the statement does not limit a reasonably broad interpretation. Other than defining the phrase "stand-alone" in broad comparative terms (e.g., that it merely contrasts with a telephone company voice mail system), the specification apparently discloses no other information about what a "stand-alone" device actually means, thus giving the examiner wide leeway in his reasonably broad interpretation of the limitation.

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claims 1 and 13. Therefore, see the claims 1 and 13 rejections for additional details. Further, see Fig. 3, which illustrates various means to perform the disclosed functions.

With respect to claims 2, 14, 15, 25, 26, 36, 37, 48, and 49, the distribution lists require input of a plurality of access codes (addresses) in a variety of communication media having unique access codes (addresses) such as e-mail addresses or telephone numbers (col. 8, lines 29-35).

With respect to claims 3, 16, 27, 38, and 50, see col. 7, lines 45-67.

With respect to claims 8, 9, 19, 20, 30, 31, 41, 42, 53, 54, see the claim 35 rejection for further details.

With respect to claims 10, 11, 21, 22, 32, 33, 43, 44, 55, and 56, the telephone number corresponds to the user's voice mailbox number when the user subscribes to a universal number service such as PCS (col. 14, lines 27-34).

Claims 1-9, 13-20, 24-31, 35-42, 46-54, and 58 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,260,986 ("Pershan"), of record.

With respect to claims 1 and 13, Pershan clearly discloses recording a message, inputting an access code (i.e., telephone number), and indicating a delivery time to the communication medium of the recipient (Figs. 2-4B).<sup>3</sup>

The limitation directed to recording and delivering a messages from a "stand-alone communication device" reads on Fig. 1, VMS 230, which is a stand-alone backup device (col. 12, lines 58-63). Thus, the VMS 230 can be interpreted as a "stand-alone communication device" because it can stand by itself if the main MVS 30 fails.<sup>4</sup>

Claim 24 differs substantively from claims 1 and 13 in that claim 24 recites sending the message to the communication medium of "oneself" rather than to the recipient. However, the caller's communication medium is a telephone, which is the same as the destination medium. Therefore, the message is sent to the communication medium of oneself. Further, the coordinator of the message distribution list is part of the organization (col. 6, lines 25-30) and sends the message to a group comprising the "whole organization" (col. 7, line 58 – col. 8, line 10), which includes the coordinator (i.e., to oneself). Otherwise the group would not comprise the whole organization contrary to the disclosure of Pershan.

Claims 35 and 47 differ substantively from claims 1 and 13 in that claims 35 and 47 recite a system comprising means that perform functions equivalent to the method steps of

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<sup>3</sup> Interpreting an "access code" as a telephone number is consistent with applicant's claim structure (e.g., see claims 8 and 9).

<sup>4</sup> See Footnote 2.

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claims 1 and 13. Therefore, see the claims 1 and 13 rejections for additional details. Further, see Fig. 1, which illustrates various means to perform the disclosed functions.

With respect to claims 4, 17, 28, 39, 51, the user indicates whether the message should only be delivered directly to the recipient by not specifying additional telephone numbers or pager numbers, which may be for "second or third person[s]" that could receive the message and indirectly relay the message to the original recipient (col. 7, lines 18-30).

With respect to claims 2, 3, 15-16, 25-27, 36-38, and 48-50, Pershan discloses inputting a plurality of access codes corresponding to all different media in a call list (e.g., telephone and pager) and different delivery times for the call lists (Fig. 2). Thus, each of the delivery times corresponds to each plurality of media.

With respect to claims 5-9, 18-20, 29-31, 40-42, 52-54, see Fig. 2, steps 84 and 86.

With respect to claims 46 and 58, see the claim 24 rejection for further details.

Claims 1, 12, 13, 23, 24, 34, 35, 45, 47, and 57 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,333,180 ("Brown"), of record.

With respect to claims 1 and 13, Brown clearly discloses recording a message, inputting an access code (i.e., telephone number), and indicating a delivery time to the communication medium of the recipient (Fig. 2, steps 216, 222 and Fig. 4).<sup>5</sup>

The limitation directed to recording and delivering a messages from a "stand-alone communication device" reads on Fig. 1, voice messaging operation center, which is a PBX based system. Thus, the PBX based system can be interpreted as a "stand-alone communication device" because it is separate from the telephone network and can be connected to a telephone line at work.<sup>6</sup>

Claim 24 differs substantively from claims 1 and 13 in that claim 24 recites sending the message to the communication medium of "oneself" rather than to the recipient. However, the caller's communication medium is a telephone, which is the same as the destination medium. Therefore, the message is sent to the communication medium of oneself.

Claims 35 and 47 differ substantively from claims 1 and 13 in that claims 35 and 47 recite a system comprising means that perform functions equivalent to the method steps of claims 1 and 13. Therefore, see the claims 1 and 13 rejections for additional details. Further, see Fig. 1, which illustrates various means to perform the disclosed functions.

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<sup>5</sup> Interpreting an "access code" as a telephone number is consistent with applicant's claim structure (e.g., see claims 8



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With respect to claims 12, 23, 34, 45, and 57, see col. 10, lines 39-44.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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and 9).

<sup>6</sup> See Footnote 2.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roland G. Foster whose telephone number is (571) 272-7538. The examiner can normally be reached on Mon to Fri from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Roland G. Foster  
Primary Patent Examiner  
May 23, 2005